IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 1329 of 2005

Between:

Manohar Dixit, S/o. Late Jagannath Rao,
H.NO. 1-6-35/3, Chaitanyapuri, Hyderabad - 500 060.

..... PETITIONER

AND

1. The Principal Secretary to Government, Revenue

Department, Secretariat Buildings, Hyderabad.
2. The Chief Commissioner of Land Administration,

Nampally Station Road, Hyderabad.
3. The District Collector (C.S.), Medak District at Sangareddy.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ of Certiorari or any other appropriate Writ, Order or Directions calling for records relating to the Order dated 21-12-2004 in O.A.S.R.No. 14637 of 2004 on the file of Andhra Pradesh Administrative Tribunal at Hyderabad and

quash the same with consequential directions to decide on merits the Original Application.

Counsel for the Petitioner: MR.G.RAMACHANDRA RAO

Counsel for the Respondents: GP FOR SERVICES II

The Court at the admission stage made the following:

O R D E R:

The writ petition is filed challenging the order, dated 21.12.2004, passed by the Andhra Pradesh Administrative Tribunal holding that the O.A. is not maintainable.

2. The petitioner worked in various capacities. While so, when he was working as Mandal Revenue Officer at Andole, Medak District, a charge memo, dated 15.9.1992, was issued alleging certain lapses on his part during the year 1990. However, final orders were passed on 30-12-1994 ordering recovery of an amount of Rs.67,577.20 ps. Against the said recovery order, the petitioner filed O.A.No.199 of 1995 and the same was allowed on 20.01.1995. Thereafter, no action was taken immediately, but on 27-11-2001, a fresh charge memo was issued to the petitioner, for which, he submitted his explanation. Ultimately, he retired from service on 30-06-2002, by which time he was promoted to Special Grade Deputy Collector. After retirement of the petitioner, his pension was not settled and only 75% of the provisional pension was paid. Since he made a representation to the authorities to release the pension, the Government appointed an Enquiry Officer vide G.O.Rt.No.1162 Revenue (Vigilance III) Department, Government of Andhra Pradesh, dated 04-08-2004, with a specific direction to submit the enquiry report within a period of two months.

3. The grievance of the petitioner is that even after lapse of four months, no enquiry was conducted and the retiral benefits have not yet been released. Therefore, he filed O.A.S.R.No.14637 of 2004 challenging the Order, dated 04-08-2004, passed by the Government appointing the Enquiry Officer. The Tribunal, after considering the matter, dismissed the O.A. on the ground that

the same was not maintainable.

4. The learned counsel for the petitioner submits that the order passed by the Tribunal is wholly illegal and contrary to law and the question as to what was challenged in the O.A. is with regard to the validity of the appointment of the Enquiry Officer and consequential enquiry on the ground that the enquiry could not be commenced even after long lapse of time**.**

5. The learned counsel would also submit that the alleged irregularities were relating to the year 1990 and even after O.A.No.199 of 1995 was allowed in the year 1995, immediate action was not taken and the charge memo was issued only on 27-11-2001 after a lapse of nearly six years and that too the charge memo was not issued by the competent officer. Therefore, the order passed by the Tribunal is illegal and contrary to law.

6. We have heard the learned Government Pleader for respondents.

7. We find that the order passed by the Tribunal is not sustainable in law, inasmuch as the challenge made by the petitioner is to the enquiry proceedings on the ground that the charges could not be enquired into at this belated stage.

8. Under those circumstances, we are inclined to remit the matter. But, in view of the fact that the petitioner retired from service long back, we feel that it is not appropriate to remit the matter to the Tribunal for fresh consideration at this stage and, therefore, we find it appropriate to decide the matter before this Court itself.

9. It is not in dispute that the petitioner retired from service on 30-06-2002 and he was paid only 75% of the provisional pension and that the gratuity has not yet been settled so far. Ultimately, even if the Government succeeds, the amount which will be recovered from the petitioner is only Rs.67,577.20 ps.

But, for the said purpose, the Government withheld higher amounts and it is now stated before this Court that the pensionary benefits of the petitioner work out to Rs.3,00,000/- and the amount that is to be recovered in case of success of the Government in the matter, is only Rs.67,577-20 ps.

10. Apart from this, the learned counsel would also submit that when a specific order was issued by the Government to submit the enquiry report within a period of two months, the same has not yet been complied with so far. Under those circumstances, withholding the pensionary benefits of the petitioner is wholly illegal and contrary to law. He also submits that the enquiry cannot be conducted in respect of the irregularities that took place in the year 1990, and no purpose would be served in conducting the enquiry after a lapse of 15 years from the date of alleged irregularities.

11. We are not inclined to accept the contention raised by the learned counsel for the petitioner that the Government has completely failed to conduct the enquiry. But, however, we find after considering the contention of the learned counsel for the petitioner that even though the Government has fixed time limit, the same has not been followed.

12. Under those circumstances, we are of the considered view that the petitioner, who was retired from service, should not be subjected to financial stringency. Thus, we find that withholding of pensionary benefits is illegal and contrary to law.

13. Accordingly, the respondents are directed to release the pensionary benefits and also gratuity within a period of three weeks from today, pending disciplinary proceedings, as ordered by the Government. We further make it clear that if the final orders are not passed in the departmental proceedings within a period of two months from today, the respondents are precluded from proceeding further in the departmental enquiry and such proceedings are deemed to have been quashed. If the pensionary benefits are not paid within

three weeks from today, the petitioner is entitled to interest on the pensionary benefits at 9% per annum from the date of retirement till the date of actual payment.

14. With the above directions, the Writ Petition is disposed of. No costs.

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G.BIKSHAPATHY,J

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P.S.NARAYANA,J

Date: 09-02-2005

Prv

To

1. The Principal Secretary to Government, Revenue

Department, Secretariat Buildings, Hyderabad.
2. The Chief Commissioner of Land Administration,

Nampally Station Road, Hyderabad.
3. The District Collector (C.S.), Medak District at Sangareddy.

4. Two CCs to G.P. for Services II, High Court of Andhra

Pradesh, Hyderabad (OUT).

5. Two CD copies.